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June 22, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

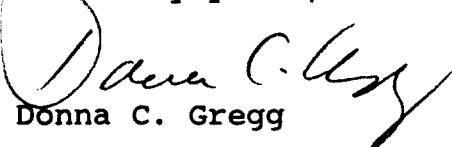
Re: Blade Communications, Inc.
Petition for Reconsideration
MM Docket 92-266

Dear Ms. Searcy:

On behalf of Blade Communications, Inc., we transmit herewith an original and 10 copies of a revised version of its Petition for Reconsideration in MM Docket 92-266, which includes an Attachment 1 that was omitted from the version originally filed. This version supersedes the Petition previously filed.

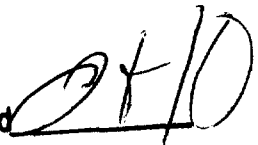
Should there be any question in connection with this matter, kindly contact Lynn Kraft at 828-3161 or the undersigned.

Sincerely yours,


Donna C. Gregg

DCG/ddl
Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Sections of the)
Cable Consumer Protection and)
Competition Act of 1992)

MM Docket No.
92-266

Rate Regulation)

To: The Commission

PETITION FOR RECONSIDERATION

BLADE COMMUNICATIONS, INC.

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June 21, 1993

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MM Docket No.
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Rate Regulation)

To: The Commission

PETITION FOR RECONSIDERATION

Blade Communications, Inc., ("Blade")¹, by its counsel and pursuant to §1.429 of the Commission's Rules, requests reconsideration of the Commission's Report and Order, MM Docket 92-266, FCC 93-177 (released May 3, 1993) (the "Order").

I. INTRODUCTION AND SUMMARY

From the onset of its operations in 1966 to the present, Blade has pursued the objective of providing high quality service to the consumer at an affordable price. Indeed, its systems' rates have been lower than those charged by other systems in the region providing comparable programming line-

¹ Blade provides cable television service through three subsidiaries: Buckeye Cablevision, Inc., serving approximately 120,000 subscribers in Toledo, Ohio and vicinity, Erie County Cablevision, Inc. serving approximately 19,000 subscribers in Sandusky, Ohio and vicinity and Monroe Cablevision, Inc. serving approximately 9,000 subscribers in Monroe, Michigan and vicinity.

ups to comparably-sized communities.² In addition, the systems were among the earliest in the industry to adhere to customer service practices that meet or exceed standards contained in the Commission's recently-adopted rules. See First Report and Order in MM Docket 92-258, FCC 93-72 (released Feb. 3, 1993) and Attachment 1.

In light of the commitment it has made to its subscribers and the communities it serves over the years, Blade felt it had no compelling reason to oppose adoption of the Cable Consumer Protection and Competition Act of 1992 (the "Act"); indeed, it was undisturbed by the prospect of a measure designed to reign in abuses in the industry. As a result, Blade encouraged Rep. Marcy Kaptur (D-Ohio), the representative for the Congressional District in which its largest system is located, to vote for the original House version of this legislation.

Had the Commission closely adhered to its Congressional mandate in implementing the Act's rate provision, Blade would not be seeking reconsideration today. After participating in the initial phase of the Commission's rate rule making, Blade now finds itself confronting a complex web of rules and policies which it believes have so veered from original

² In recent years Blade's Toledo system had the lowest rates of any of the major cities in the state, with a total of 42 channels of basic and satellite tiers offered for a total of \$20.95. Rates for similar service in other major Ohio cities ranged from \$22.85 to \$27.52.

Congressional intent that the industry's "good actors" are being penalized as much as -- if not more than -- operators that the legislation targeted for regulation. In addition, the level at which the benchmarks have been set, when combined with the loss of revenue from equipment and additional outlets, jeopardize the industry's ability to continue to raise capital.

This petition will focus on the three specific provisions that will have a severe adverse effect on the systems' ability to provide their customers with the newest and best that the equipment, programming and information industries have to offer:

- (1) the regulatory treatment of charges for equipment, installation and additional outlets (Rule §76.923(c));
- (2) the benchmark approach's disincentives for technical upgrading of the system and adding new equipment (Rule §76.923(d)).

subscribers primarily for unregulated services and used only incidentally for basic should not be subject to cost-based regulation. Otherwise, contrary to the apparent legislative intent, there is virtually no equipment that would be immune from to cost-based regulation.

The impact of subjecting all equipment and additional outlets -- even when used only incidentally for basic service -- is extremely harsh, as illustrated by the status of additional outlet charges in the company's largest system. In 1966, the system charged \$1.00 per month for an additional outlet. Today, nearly 30 years later, the monthly price is only \$2.50, as compared with the \$4.07 it would be had the price merely increased with inflation³. Approximately one-third of the system's subscribers currently have one or more additional outlets, which certainly indicates that consumers consider the price for this extra convenience to be fair and reasonable. Yet, under the Commission's formula, the price that the system can charge for an additional outlet is only 24¢ per month. Blade has estimated that revenues will decline by \$1,600,000 per year because of the reduction in the price of additional outlets and other equipment-related charges.

³ Although these charges are higher than "cost" determined in accordance with the rules' formula, they enable cable operators to charge lower rates for the single-outlet subscriber as well as to keep installation rates low enough to attract new subscribers.

Blade believes that Congress provided for cost-based regulation of these charges to protect the interests of the "lifeline" subscriber and never intended for it to apply all equipment, even that purchased solely for the purpose of receiving expanded tiers, premium channels, or pay-per-view. Blade urges the Commission to revise the scope of this provision.

III. THE BENCHMARK'S DISINCENTIVES FOR UPGRADING THE SYSTEM OR ADDING NEW PROGRAMMING

The Order identifies several categories of costs ("external costs") that cable operators may pass through to subscribers without a cost-of-service showing, even if the resulting rates exceed the applicable price cap. Blade strongly endorses this general "pass-through" policy, because it is the only way that the benchmark approach can be a workable, viable alternative to full-blown cost-of-service regulation. In order for cable systems to continue incorporating advances in technology into their operations -- or, for that matter, even to maintain the current level of quality -- they must be able to recover external costs over which they have little or no control. A full and fair recognition of these external costs of doing business, however, requires that the Commission modify its pass-through policy.

Below, Blade suggests two modifications that would greatly improve the usefulness of the benchmark approach.

A. The Commission Should Consider Capital Costs On A Going-Forward Basis

The Commission has determined that cable service rates will be regulated on a going-forward basis by price caps applied to rates set in accordance with the applicable rate benchmark. See Order at para. 262. Under this price cap mechanism, rate increases are limited to increases in the GNP fixed weight price index (GNP-PI). Significantly, the FCC has declined to allow operators to pass-through the costs of system improvements, including the capital investment. See Order at n.608. Thus, operators that undertake such system improvements are limited in their ability to recover the capital investment by the annual GNP-PI cap on rate increases, unless they make a cost-of-service showing.

Blade urges the Commission to reconsider its treatment of capital investment in system expansions and upgrades. Specifically, the FCC should allow cable operators to recover their full investment by passing through such costs to subscribers via a per channel rate adjustment. In addition, pass-throughs should include a reasonable rate of return on capital investment.

This approach is warranted for several reasons. First, an explicit statutory objective of the Act is to "ensure that

cable operators continue to expand, where economically justified, their capacity and the programs offered over their cable systems." 1992 Cable Act at § 2(b)(2). As Congress recognized, system upgrades are a prerequisite to increased capacity, which in turn makes possible a greater diversity of programming and information. Moreover, cable operators are ideally positioned to invest in and build substantial portions of the new "information infrastructure," which has become an urgent national objective. By allowing operators to recover capital costs associated with system improvements, the Commission will promote these policy goals, while also reducing the likelihood that operators will be forced to resort to burdensome cost-of-service showings.

**B. All External Costs Should Be Eligible
For Pass-Through As Of The Effective
Date Of The Regulations**

Under the Order, there is a lengthy "lag time" between when cable operators incur increased costs and when they can begin to recover them in their rates.⁴ Calculating the permissible pass-through will be more confusing because, for basic service, the start date for measuring changes may vary

⁴ The starting date for measuring changes in external costs eligible for pass-through is the date on which the basic service tier becomes subject to regulation or 180 days after the effective date of the regulations, whichever occurs first. Pursuant to the Commission's Order of June 11, 1993, if a franchising authority had not yet been certified, that date would be April 1, 1994.

depending on when local franchising authorities receive FCC certification.⁵ Thus, the start date could vary significantly from operator to operator. What is more, an operator could face the need to measure changes in external costs over different periods for different communities served by a single system. Selecting the effective date of the rules as the single date for measuring changes in external costs would eliminate confusion and inequitable treatment of operators. In addition, it will allow external costs incurred in the near term to be fully recovered.

IV. TREATMENT OF RETRANSMISSION CONSENT COSTS

The signal carriage provisions of the Act give broadcasters the ability to elect between guaranteed carriage of their signals on local cable systems or a negotiated arrangement in which stations grant the right to carry their station in exchange for compensation from the cable system. The retransmission consent half of this scheme relies on market-place negotiations, taking into account the value of the broadcast programming to the cable operator as well as the value of cable carriage to the broadcaster. The rate regulations, however, place some serious, artificial constraints on the functioning of the marketplace in these

⁵ For expanded tiers, the start date may vary depending on when or if a complaint is filed.

negotiations, in that cable systems opting for the benchmark cannot recover increased costs they incur resulting from retransmission consent prior to October, 1994.

Although the Commission has recognized that retransmission consent will increase cable systems' operating costs immediately upon taking effect in October, 1993, see Order at paras. 247 & 547 n. 1402, it erroneously assumed that current cable basic rates already reflect the value of broadcast signal carriage. See Order at para. 243. Early reports indicate that the fees many stations will be seeking for carriage will be substantial. Although Blade's systems have carried broadcast signals for years, the systems' rates traditionally have not reflected as significant an amount for the "value" of signals as broadcasters may be seeking. Nor do the systems include costs for broadcast signals (other than copyright royalty fees) in their program budgets. Thus, carriage of stations seeking retransmission consent compensation will result in brand new costs that cannot be funded merely by redistributing funds already in the budget. If precluded from recovering those costs and otherwise constrained by rate regulation from absorbing them, Blade and other cable operators will have no alternative but to drop signals.⁶

⁶ As of June 17, the majority of the local stations that each of the company's systems carry have elected
(continued...)

The benchmark rules also prohibit recovery of the initial increase in an effort to protect subscribers from "any precipitous increase" in rates after October 6, 1993 (the date retransmission consent goes into effect). See Order at para. 247. Ironically, the Commission's prohibition on recovery of initial retransmission consent costs may adversely affect cable subscribers in an even more dramatic way than would a slight increase in costs. Many subscribers surely would prefer a slight increase in rates to losing signals. Besides depriving customers of valued programming, the current policy also would deny many broadcasters the benefits retransmission consent was intended to provide them.

Blade urges the Commission to reconsider its position and allow cable operators to include initial retransmission consent costs when they first begin measuring the change in programming costs. If the Commission remains convinced that there is a need to protect subscribers against excessive or substantial pass-throughs, it could allow retransmission consent costs to be included subject to a reasonable cap for the first year.

⁶(...continued)
retransmission consent. In addition, each system carries a number of formerly local signals from adjacent ADIs. The systems intend to negotiate in good faith to preserve their current broadcast line-ups in tact; however, without the ability to recover costs, it is possible that not all stations will continue to be carried.

V. CONCLUSION

For the benchmark that the Commission has adopted to be a workable option, it must allow cable systems a reasonable return on equipment, installation and additional outlets. In addition, the benchmark must include incentives for system upgrades. Finally, the delay on recovery of costs as well as the additional delay or recovery of increased costs as well as the additional delay on recovery of retransmission consent costs should be eliminated or reduced.

Respectfully submitted,

BLADE COMMUNICATIONS, INC.

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Cable Television Consumer Protection and Co

FCC-Mandated Customer Service Standards All standards are effective July 1, 1993

FCC Standard Is:

• For us to maintain a local toll-free or collect access line 24 hours a day, 7 days a week. During normal business hours (hours during which most similar businesses are open to serve customers, and must include evening hours at least one night per week and/or some weekend hours), the phones must be staffed by trained company representatives. An answering service or machine may be used at other times, but if so, inquiries received after hours must be responded to the next business day.

• For a trained customer service representative to be on the phone within 30 seconds after a connection is made, and that if the call is transferred, the transfer must be completed within 30 seconds. These standards must be met 80 per cent of the time, and stipulate that the phones will be busy less than three per cent of the time.

• For the customer service center and bill payment locations to be open at least during normal business hours (see above) and to be conveniently located.

• That standard installations (up to 125 feet from existing plant) will be performed within seven business days after the order is placed.

• "Appointment windows" will be either a specific time or, at maximum, a four-hour time block during normal business hours.

• That we begin working on service interruptions within 24 hours after the interruption becomes known, and that we begin working to correct other service problems the next business day after notification of the problem.

The CableSys

• Already provide live on the Cablesys 365 days a year. Trained customer service representatives answer immediate inquiries. We DO NOT use a machine answer on other calls. The seconds.

• With proper training, our staff can handle any customer service issue. In 1993, we have been rated 98% on all calls and answered 100% of the time.

• Keep our lobby open 24 hours a day, 7 days a week. Our staff is available to 4 p.m. Saturdays. Food Town Plus at Road is open from 10 a.m. to 6 p.m. Through research, we will open a new store at 3010 1st St. from 1 to 7 p.m. and may be held at 18 1/2 payment drop box.

• Perform standard installations (up to 125 feet from existing plant) the next day after the order is placed. Others are completed within a week.

• Offer one-hour and two-hour windows scheduled from 8 a.m. to 6 p.m. on Fridays and from 8 a.m. to 6 p.m. on Saturdays. We also offer appointments.

• Resolve all service issues, anytime day or night. We have with permanent rep

FCC Standard Is:***The CableSystem Does:***

<ul style="list-style-type: none"> • That we cannot cancel an appointment after the close of business on the day before the appointment; that if our field crews are unable to keep an appointment window, the customer must be contacted and another appointment, convenient to the customer, be scheduled. No penalty for non-compliance, in the form of credit or free installation, is spelled out 	<ul style="list-style-type: none"> • NOT ever cancel appointments. If we cannot meet the scheduled appointment window, we contact the customer and reschedule to the customer's convenience, preferably yet that day. Technicians are authorized to award credit to the customer in the field if we miss the appointment window.
<ul style="list-style-type: none"> • That we communicate with our customers at least annually concerning products and services, prices and options, installation and service policies, instructions on use of services and equipment, channel positions, and billing and complaint procedures. 	<ul style="list-style-type: none"> • Routinely inform our customers of any such changes, and that practice will continue to conform to the new law. In addition, each year a letter goes to all customers over the signatures of both the president and chairman of the board listing both their home telephone numbers, and asking the customer to call either at home if the subscriber has a problem which has not been resolved through normal channels.
<ul style="list-style-type: none"> • For us to notify customers at least 30 days in advance of any changes in rates, programming, or channel positions. 	<ul style="list-style-type: none"> • Mailings in advance of any such changes. In addition, we also notify government officials of any changes which might result in questions to them from their constituents.
<ul style="list-style-type: none"> • That our bills be clear, concise, understandable, and fully itemized. In case of a billing dispute, we must respond to a written complaint within 30 days. 	<ul style="list-style-type: none"> • Send out clear, concise, understandable, and itemized statements, and has for some time. We act upon any dispute upon receipt of a written query. If the issue can be resolved immediately, it is and the customers is called or sent a letter that same day. If the dispute will require extensive research, the customer immediately is sent a letter to that effect, then is notified immediately upon resolution, usually within two weeks.
<ul style="list-style-type: none"> • That we issue refund checks no later than (1) the customer's next billing cycle following resolution of the request, or (2) 30 days, whichever is earlier, or the return of the equipment supplied, in the event of termination of service. 	<ul style="list-style-type: none"> • Issue refund checks automatically twice monthly or upon request from a customer. In addition, we empower all customer relations representatives to authorize credits or refunds, eliminating the need for the customer to talk to several levels of supervisors.